

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN PEROTTI,

Plaintiff,

v.

HELEN MARBERRY, *et al.*,

Defendants.

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Case No. 05-60172

Hon. John Corbett O'Meara  
Magistrate Judge R. Steven Whalen

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND OVERRULING OBJECTIONS**

Before the court is Magistrate Judge R. Steven Whalen's report and recommendation, filed August 14, 2012, which recommends that the court grant Defendants' motion to dismiss. Defendants Helen Marberry, Deborah Cozza Rhodes, Melody Morris, and Dr. Malitinsky ("BOP Defendants") filed a limited objection on August 27, 2012. Plaintiff filed objections on September 4, 2012, and a supplemental objection on September 13, 2012. The BOP Defendants filed a response to Plaintiff's objections on September 18, 2012.

This court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C). The court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.* Having thoroughly reviewed the papers, the court finds that the magistrate judge correctly concluded that the complaint must be dismissed as to the BOP Defendants. The court further finds that by failing to respond to Defendants' motion, Plaintiff has waived his arguments in opposition. Accordingly, the court will overrule Plaintiff's objections.

IT IS HEREBY ORDERED that Magistrate Judge Whalen's August 14, 2012 report and recommendation is ADOPTED and the BOP Defendants' January 17, 2012 motion to dismiss is GRANTED.

IT IS FURTHER ORDERED that both Plaintiff's and Defendants' objections to the report and recommendation are OVERRULED.

s/John Corbett O'Meara  
United States District Judge

Date: September 27, 2012

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, September 27, 2012, using the ECF system and/or ordinary mail.

s/William Barkholz  
Case Manager